

REMARKS / ARGUMENTS

Applicants thank the Examiner for the consideration given the present application. Claims 1-28 are pending. Only Claim 25 is amended in this response.

The Rejection under 35 U.S.C. § 102 (b)

The Examiner has rejected Claims 1-28 under 35 U.S.C. § 102 (b) as being independently anticipated by Rizzi et al, U.S. Patent Number 3,963,699, issued June 15, 1976 (herein "Rizzi"), Kenneally, U.S. Patent Number 5,491,226, issued February 13, 1996 (herein "Kenneally"), and Volpenhein, U.S. Patent Number 4,517,360, issued May 14, 1985 (herein "Volpenhein"). For the following reasons, Applicants respectfully traverse these rejections.

The present invention relates to processes for the production of polyol fatty acid polyesters. Specifically, the present invention relates in one respect to the production of polyol fatty acid polyesters having a medium chain length of about 6 to about 14 total carbon atoms. The present inventors have surprisingly discovered that it is these particular medium chain lengths that result in the formation of a polyol fatty acid polyester having a low pour point, which is advantageous for use in various applications where low pour point temperatures are desirable. The present inventors have also surprisingly discovered that in order to efficiently obtain medium chain fatty acid polyesters, a substantially constant reflux rate must be maintained during transesterification to retain the volatile fatty acid ester reactants.

Under 35 U.S.C. § 102, a claim is anticipated only if each and every claim element is found, either expressly or inherently disclosed, in a single prior art reference. See *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). Although this disclosure requirement presupposes the knowledge of one skilled in the art of the claimed invention, that presumed knowledge does not grant a license to read into the prior art reference teachings that are not there. See *Motorola, Inc. v. Interdigital Tech. Corp.*, 121 F.3d 1461, 43 USPQ2d 1481, 1490 (Fed. Cir. 1997). Additionally, there must be no difference between what is claimed and what is disclosed in the applied reference. See *Scripps v. Genetech Inc.*, 18 USPQ2d 1001, 1010 (Fed. Cir. 1991). Moreover, it is incumbent on the Examiner to identify wherein each and every facet of the claimed invention is disclosed in the applied reference. *Ex parte Levy*, 17 USPQ2d 1461, 1462 (BPAI 1990).

As aforementioned, the Examiner has based the present rejection on three references, alleging that each reference independently anticipates the present claims. However, Applicants respectfully assert that none of the references discloses "each and every claim element," as is

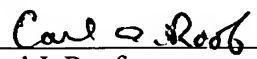
required. Specifically, none of the cited references teach a process for making a polyol fatty acid polyester composition wherein the polyol and fatty acid esters are heated at a temperature and pressure sufficient to maintain a substantially constant reflux rate. As described above, and in the Specification at page 11, this is an important feature of the present invention, and this element is included in Claims 1-28. (Claim 25 has been amended to include the requirement of substantially constant reflux during reaction of the polyol and fatty acid ester. No new matter is added.) Applicants respectfully assert that, for the foregoing reasons, the Examiner has not satisfied the burden of identifying wherein each and every facet of the claimed invention is disclosed in the applied references.

While the foregoing references arguably share some characteristics with the present invention, none of the references teach each and every claim element. Therefore, for all of the preceding reasons, Applicants respectfully assert that the Examiner has failed to establish that the present invention is anticipated under 35 U.S.C. § 102 (b), and thus, respectfully request withdrawal of the rejection.

CONCLUSION

For all the foregoing reasons, Applicants respectfully request withdrawal of the rejection under 35 U.S.C. § 102 (b). If the Examiner believes that personal contact would be advantageous to the disposition of this case, the Examiner is respectfully requested to contact the undersigned.

Respectfully submitted,



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